

Serial No. 10/663,237

Page 5 of 8

**REMARKS**

This response is intended as a full and complete response to the non-final Office Action mailed July 7, 2005.

In the Action, the Examiner notes that claims 1-6 are pending and rejected. By this response, claim 1 is amended.

In view of both the amendments presented above and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the respective provisions of 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

**REJECTION OF CLAIMS UNDER 35 U.S.C. §103(a)**

The Examiner has rejected claims 1-6 under 35 U.S.C. §103(a) as being unpatentable over Yao et al. (U.S. 6,021,464, hereinafter "Yao") in view of DeMoney (U.S. 6,721,789, hereinafter "DeMoney"). The rejection is respectfully traversed.

The Yao reference is directed to guaranteeing disk write deadlines by selecting an alternative disk if needed. Specifically, "when a write request for a given disk is issued, if it is determined that some of this write request and other access requests having time limits for this disk device would not be executed within the respective time limits, the system writes the data temporarily into another disk device." That is, given an access request time outside of a defined time limit, temporary storage of data on an alternate disk device is provided.

The DeMoney reference discloses scheduling storage accesses for rate-guaranteed and non-rate-guaranteed requests. Within the context of the DeMoney arrangement, bandwidth is preferentially allocated to a guaranteed rate

380927-1

Serial No. 10/663,237

Page 6 of 8

queue over a non-rate-guaranteed queue. If necessary, rate guaranteed requestors are limited such that maximum stream rates for guaranteed streams do not exceed the preferential allocation of bandwidth to the guaranteed rate queue.

The cited references, either alone or in any allowable combination, fail to disclose or suggest the invention of claim 1, as follows:

A method of accessing data stored in a disk array as a plurality of extents striped across the disks forming the disk array, the method comprising:

- receiving a new user access request;
- assigning the new user access request to a disk d of said disk array;
- determining when the new user access request will be processed by examining extent size for requested data stored on disk d, wherein if the new user access request will be processed within a predefined period of time, placing the new user access request into a new user queue for disk d; otherwise, assigning the new user access request to another disk of said disk array.

In contrast to the above-quoted claim language, it is noted that neither reference addresses "striped" data, wherein the content stream is divided into a plurality of extents, where each adjacent extent is stored within a separate disk of a disk array. There is no extent-by-extent processing in the cited references.

Therefore, since the arrangements fail to disclose or suggest processing of striped data, much less the read access and processing according to striped data extents in the claimed manner, it is respectfully submitted that the invention of claim 1 is patentable over the cited references. Moreover, since claims 2 and 3 depend from claim 1 and recite additional limitations therefrom, it is respectfully submitted that these claims are also patentable over the cited references.

Further with respect to claim 2, the Examiner contends that "Yao describes of selecting the 'another disk' as a device Dt ...." This is entirely unlike the claimed invention. Specifically, content within the context of the claimed invention is striped across disks within a disk array. There is no arbitrariness to the method and arrangement of storage on the claimed disk array. It is true that Yao may use any other disk available, but that is only true within the context of

380927-1

Serial No. 10/663,237

Page 7 of 8

the non-striped disk arrangement used by Yao. Thus, to the extent that the structure of Yao appears on its surface to be similar to the Examiner as the claimed invention, it is respectfully noted that the arbitrary selection of a disk is possible within the context of the very different structure used within the Yao arrangement. This is entirely unlike the claimed invention.

Further with respect to claim 3, the discussions of Yao above with respect to claims 1 and 2 are also applicable here. The Yao arrangement in combination with any of the cited references still does not disclose or suggest the claimed invention.

Claims 4-6 are also patentable for at least the reasons discussed above with respect to claims 1-3.

As such, Applicants submit that independent claims 1 and 4 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Furthermore, claims 2-3 and 5-6 depend from independent claims 1 and 4 and recite additional limitations thereof. As such and at least for the same reasons as discussed above, Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicants respectfully request that the rejection be withdrawn.

#### **SECONDARY REFERENCES**

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

#### **CONCLUSION**

Applicants submit that claims 1-6 are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

380927-1

Serial No. 10/663,237

Page 8 of 8

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

10/11/05EJ Wall

Eamon J. Wall, Attorney  
Reg. No. 39,414  
(732) 530-9404

Patterson & Sheridan, LLP  
Attorneys at Law  
595 Shrewsbury Avenue, Suite 100  
Shrewsbury, New Jersey 07702